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**STATEMENT FOR HOUSE PERMANENT SELECT COMMITTEE
ON INTELLIGENCE**

11 May 04

Mr. Chairman, members of the Committee.

We are here today to continue the discussion on the terrible activities at Abu Ghraib begun last Friday by the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, Acting Secretary of the Army, Army Chief of Staff and the Deputy Commander, CENTCOM, who is with us today.

Before going further, let me say that we are dismayed by what took place. The Iraqi detainees are human beings, they were in U.S. custody, we had an obligation to treat them right, and we didn't do that. That was wrong. I associate myself without reservation to the sentiments expressed by the

Secretary: "To those Iraqis who were mistreated by members of U.S. armed forces I offer my deepest apology. It was un-American. And it was inconsistent with the values of our nation."

A number of issues related to those events arose during the hearing last Friday or have been the subject of public commentary before or since. I'd like to take a moment to address some of them.

First, with respect to the application of the Geneva Convention to detainees in Iraq: From the outset of the war in Iraq, the United States government has recognized and make clear that the Geneva Conventions applied to our activities in that country. Members of our armed forces should have been aware of that.

If they were not, LTG Sanchez, CJTF-7 Commander, reminded the forces under his command of the obligation.

Nevertheless, there clearly was a breakdown in following Geneva Convention procedures at Abu Ghraib, and we are in the process of investigating right now why that happened.

As MG Miller, who is now in charge of detainee operations in Iraq remarked on Saturday, the procedures established for interrogations in Iraq were sanctioned under the Geneva Convention and authorized in U.S. Army manuals. All permissible interrogation activities were within the requirements and boundaries of applicable provisions of the Geneva Convention.

We are currently investigating why some soldiers at Abu Ghraib did not abide by those understood procedures and guidelines.

Early in the war on terrorism, long before the war in Iraq, the administration made a determination that the Geneva Convention did not apply to al Qaeda detainees.

That decision was made because the Geneva Conventions govern conflicts between states and the al Qaeda is not a state, much less a signatory of the Convention. Moreover, the Conventions forbid the targeting of civilians and requiring that military forces wear designated uniforms to

distinguish them from non-combatants. Terrorists don't care about the Geneva Convention nor do they obey its guidelines. They deliberately target civilians, for example, and have brutalized and murdered innocent Americans in their custody.

To grant terrorists the rights they so cruelly reject would make a mockery of the Geneva Conventions. Nonetheless, President Bush did order that detainees held at Guantanamo be treated humanely and consistent with the Conventions' principles. And, in fact, those detainees in the war on terror are being provided with many privileges typically afforded to EPWs.

The notion that this decision in some way undermined the Geneva Convention is false. To the contrary, the administration made this decision with the objective of assuring that those who would claim protection under its auspices and not act in keeping with its intent did not abuse the Geneva Convention. Far from disrespect, the decision was made out of respect.

The notion of a departmental belief that the alleged climate created and led to abuse in Iraq is therefore not in keeping with clear and stated determination to adhere to the Geneva Convention.

Second, MG Miller's recommendations: MG Miller was sent to Iraq based on his experience with the flow of information gained by interrogation at Guantanamo Bay. He was sent under Joint Staff auspices to determine if the flow of information to CJTF-7 and back to the subordinate commands could be improved. His report laid out an approach to do this in a series of recommendations to General Sanchez.

One recommendation on detention operations was to dedicate and train a detention guard force subordinate to the JICD Commander that "sets the conditions" for the successful interrogation and exploitation of internees/detainees. In making this recommendation, MG Miller was underscoring the need for military police and military intelligence personnel to act in a fashion such that the one did not undermine the efforts of the other to discover during interrogation information that was important to coalition forces and the lives of Iraqi civilians. Consequently he

underscored the need for legal review by a dedicated command staff judge advocate.

With respect to detention operations, MG Miller noted that their purpose is to provide a safe, secure and humane environment that supports the expeditious collection of intelligence.

In addition, he observed that detention operations must be structured to ensure the detention environment focuses the internee's confidence and attention on their interrogators. He recommended training in building the teamwork between the interrogator and detention staffs to accomplish this objective.

Order placing MPs TACON to military intelligence: On November 19, 2003 General Sanchez issued an order effectively placing Abu Ghraib, *under tactical control of the 205th Military Intelligence Brigade*. This order was within the authority of General Sanchez to give and LTG Smith might elaborate on the reasons this order was given. It gave a senior officer responsibility for the facility. This included force protection, internal

security, living conditions for the troops, and so forth. It did not give the MI Brigade Commander authority over military police operations. Let me stress that its promulgation in no way changed the rules governing the conduct of the military police and military intelligence personnel in Iraq with respect to the laws of war, the Geneva Convention, CENTCOM direction or CJTF-7 directions and instructions.

Third, role of contractors: I am informed that contractors may not perform interrogations except under the supervision of military personnel. There may have been circumstances under which this regulation was not followed. This is a matter that General Fay will examine. In addition, contractors may not supervise or give orders or direction to military personnel. While contractors are not under military discipline, they are subject to suspension from their contract by the government. Furthermore, criminal sanctions for any crimes a contractor may commit may be available in U.S. Federal Court.

And fourth, with respect to oversight of military intelligence, criminal investigation, and the operations of combatant commanders.

- Intelligence support -- USD/I ensures that intelligence support across DoD meets warfighters' requirements. This includes ensuring the alignments of policies and programs with current operational requirements, oversight of certain special access programs and development of intelligence-related strategies and assessments. Joint Commands provide oversight to "intelligence activities", consistent with their ongoing oversight responsibilities for "operations." Services have responsibility for policy, training, doctrine and allocation of forces to Joint Commands. Services are also responsible for Counter Intelligence investigations and oversight.
- Criminal investigations -- The DoDIG oversees the Military Departments' criminal investigative missions. Within the DoDIG's office, the office of Investigative Policy and Oversight develops and maintains DoD policy addressing investigative and law enforcement matters in DoD, as well as corresponding legislative issues. Specifically, the Oversight Directorate examines investigative and law enforcement operations and programs to assess effectiveness

and efficiency, compliance with established policy and procedures, and need for new or revised policy applicable to investigations or law enforcement.

Actions taken or underway:

- A. LTG Sanchez, Commander, CJTF-7, launched a criminal investigation immediately.
- B. He asked MG Taguba for an administrative review of procedures at the Abu Ghraib facility. These have resulted already in criminal or administrative actions against many individuals, including the relief of the prison chain of command and criminal referrals of several soldiers directly involved in abuse.
- C. The Army has launched an Inspector General Review of detainee operations throughout Afghanistan and Iraq, which continues.
- D. The Army has initiated an investigation of Reserve training with respect to military intelligence and police function.

- E. LTG Sanchez asked for an Army Intelligence review of the circumstances discussed in MG Taguba's report.
- F. The Secretary of Defense has directed the Naval Inspector General to review our operations at Guantanamo and the Charleston Naval Brig.
- G. Several senior former officials, led by former *Secretary of Defense James Schlesinger*, have been asked to examine the pace, breadth, and thoroughness of the existing investigations, and to determine whether additional investigations need to be initiated. They are being asked to report their findings within 45 days of taking up their duties, and the Secretary of Defense will encourage them to meet with you to keep you apprised.
- H. The Secretary of Defense is preparing a personal message for the men and women of the armed forces underscoring his dismay at events at Abu Ghraib, expressing his confidence in the valor and professionalism, stressing once again that the Geneva

Conventions applies to our conflict in Iraq and expressing his confidence in the ultimate success of our mission in Iraq.

This is an occasion to demonstrate to the world the difference between those who believe in democracy and human rights and those who believe in rule by the terrorist code. We value human life; we believe in their right to individual freedom and the rule of law. For those beliefs, we send our men and women of the armed forces abroad – to protect that right for our own people and to give millions of others the hope of a future of freedom. Part of that mission is making sure that when wrongdoing or scandal occurs it is not covered up, but exposed, investigated, publicly disclosed – and the guilty brought to justice.

I believe we can repair the damage done to our credibility in the region. If we hold true to our principles and continue to keep our commitments to the people of Iraq and Afghanistan, eventually the nobility of that mission will touch the hearts of more people in the Arab world. I am confident of this because of the outstanding service

that has been rendered by the vast majority of the men and women of U.S. armed forces.

Thank you Mr. Chairman. My colleagues have some comments to make.